

September 16, 2003 CPC



STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

04TW0108

Kenneth and Lois Ebright

Bermuda Magisterial District

At the northern terminus on the western line of Ashwood Road

**REQUEST:** Kenneth and Lois Ebright request a development standards waiver to the Zoning Ordinance provision in Section 19-510(a)(1) to permit a boat to be parked in the side yard rather than the required rear yard. It should be noted that the request is a result of a complaint.

**RECOMMENDATION**

Staff recommends approval of the development standards waiver, subject to the Condition, for the following reasons:

1. The property's rear yard has physical and topographic limitations on the ability to park the boat in the required area.
2. The parking area in the side yard adjacent to the house is partially screened by the house and other vehicles parked in the driveway.

**CONDITION**

The boat shall be parked in the side yard immediately adjacent to the structure at all times except during loading and unloading activities.

***Providing a FIRST CHOICE Community Through Excellence in Public Service.***

## GENERAL INFORMATION

### Applicant/Owner:

Kenneth and Lois Ebright

### Location:

The northern most lot on the western side of Ashwood Road, also known as Quail Oaks Lot 6 Block I Section A and 9554 Ashwood Road. Tax ID 790-667-6548 (Sheet 18).

### Existing Zoning and Land Use:

R-7; Single Family Residential

### Size:

0.299 acre

### Adjacent Zoning and Land Use:

North - R-7; Bellwood Elementary School

South - R-7; Single family residential

East - R-7; Single family residential

West - R-7; Single family residential

## BACKGROUND

The eighteen (18) foot long boat has been parked in the same location in the driveway on the south side (left side) of the house for approximately two (2) years prior to the department receiving a complaint (Attachment 3). The Ordinance requires that the boat be parked in the rear yard (behind the house) at least five (5) feet from the side lot line and ten (10) feet from the rear lot lines. After the property owner reviewed the situation with Zoning Enforcement staff, it was concluded that the only viable option was to request a development standards waiver.

The property owner is requesting permission to retain the boat parking in this location because they have installed a security light and camera covering this area as a result of previous vandalism of the boat. The applicants have submitted information to address the requirements of Section 19-19 regarding granting a development standards waiver. (Attachments 1- 2)

In the information, the applicants refer to a very narrow rear yard. The survey plat verifies that the rear yard is the minimum allowable rear yard of twenty-five (25) feet. The house appears to have been built far back from the street to allow for the construction of a temporary turnaround that was not built. In its place is an entrance to the adjacent elementary school. This increased front yard setback is not unique to this property but due to the shape of the original tract all of the

other lots on the block have much deeper rear yards. The applicants did not mention that there is a drainage way through the northern part of the rear yard and the southern area of the rear yard appears to have an adverse slope to develop parking in the rear of the yard. (Attachment 4)

### CONCLUSIONS

Staff believes that based upon the physical constraints of the property including a drainage course through the rear yard, the presence of a non-residential use adjacent to the property (Bellwood Elementary School) and the limited scale of the request that the approval of the development standards waiver will not adversely impact the neighborhood.

July 30, 2003

RE: Development Standard Waiver Application Section 19-510 (a)  
(1)

To the Planning Commission:

We are Kenneth & Lois Ebright and we come asking that we be granted a Development Standard Waiver. We are going to try our best to bring out the points that need to be made in order for the modification to be made.

1. Because of the VERY narrow back yard we can not store our boat there. Enclosed you will find copies of our mortgage plot. We have an attached garage that we also can not fit the boat into.
2. If we were granted the waiver the boat could stay parked where it has been for two years with a camera and security light. If we have to move the boat the ONLY place to park it would be on the street, which could present a safety issue with Bellwood School. (See enclosed petition from the principal of the school.) Also, if the boat stays where it is parked beside our house, it would only be on our property and there would not be any hardship with other properties in the same zoning district.
3. If we were granted the waiver, it would not be injurious to the use and enjoyment of adjacent property owners, nor will it impair property values within the neighborhood. Enclosed are petitions signed by all our neighbors clearly stating this fact. This boat has sat in the same place for two years and we have NEVER had a problem with it being parked there.
4. The situation or condition of our property will not allow us to park our boat anywhere but where it is now. Once again, our lot is much narrower than the other lots. We have more

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front yard than most neighbors because of the narrowness of our back.

5. The final point is if we are granted the waiver, it will still allow us to comply with the project plan. We have walked through this neighborhood and there are many boats as well as campers that are parked in front of houses. Our boat is not parked in front; it is beside the house as far back as we can possibly park it.
6. To sum all this up, the reason we are asking for the Development Standard Waiver is because there are conditions beyond our control. When we purchased our home a year ago, we did not have any idea that because of the size and shape of our plot that we would have a problem parking our boat. We feel that we have been willing to problem solve this condition, but due to our conditions, and the safety of our boat as well as the children of the neighborhood, the best place for it is parked where it is.

Thank you for your time in our matter. We hope that we have gotten our point across to you as well as bringing into the letter the five or so facts that we needed to address.

Enclosed, you will also find a copy of our plot. We hope this will be helpful in making your decision.

Thank you,

Kenneth & Jo Ann Elbright

REQUIRED FINDINGS – Section 19-19

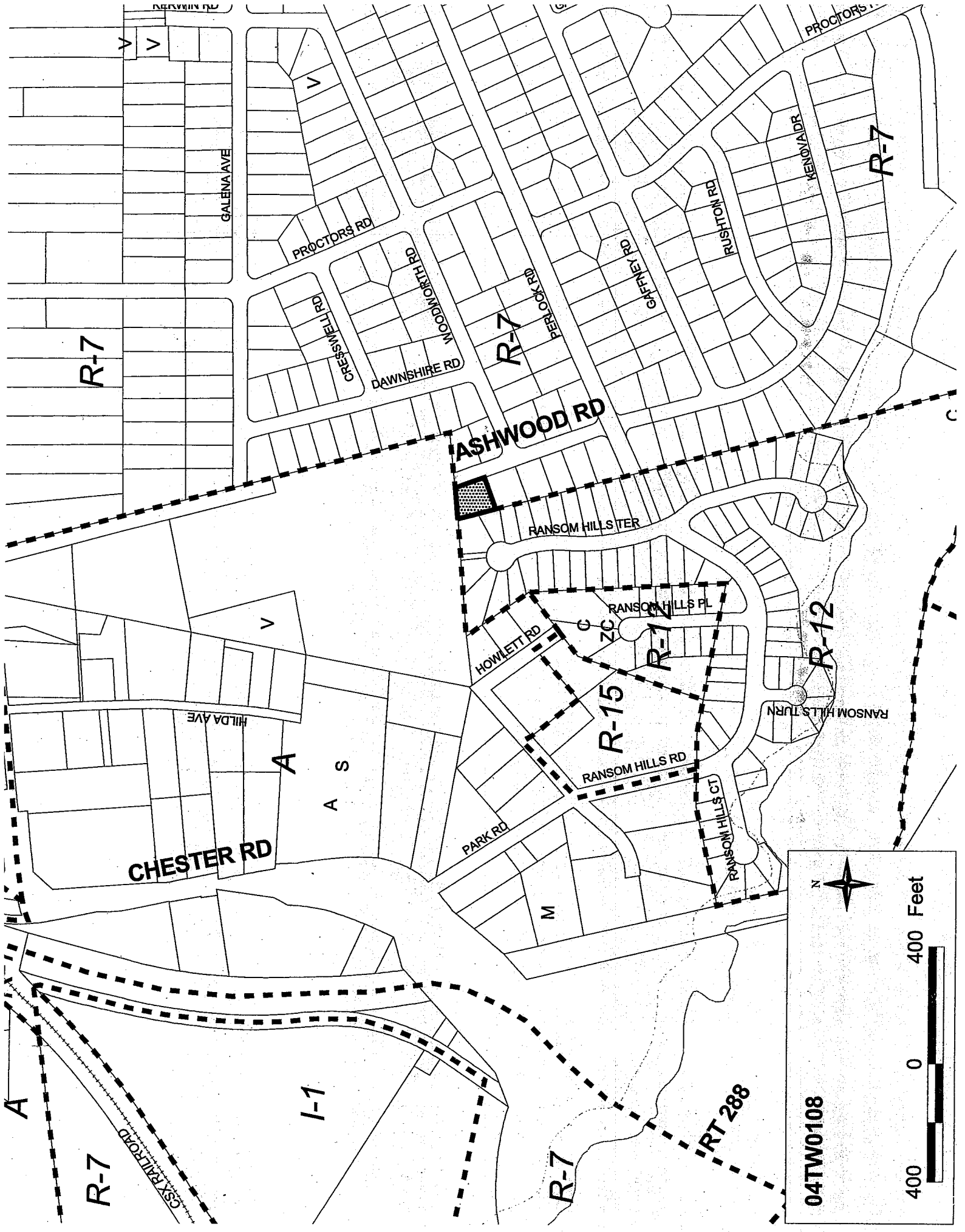
The Planning Commission may grant a development standards waiver to development standards or requirements specified in the Zoning Ordinance if it is determined to be in substantial compliance with all of the following factors:

- (1) By reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property or by reason of exceptional topographic conditions or other exceptional situation or condition relating to such property the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property.
- (2) The granting of the modification will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience, and the hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) The modification will not be injurious to the use and enjoyment of adjacent property owners; will not diminish or impair property values within the neighborhood; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare.
- (4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (5) The granting of such modification will allow the project to comply with the Comprehensive Plan.

The Planning Commission shall not grant a modification to any development standard or requirement if:

- (1) The granting of the modification will constitute the granting of a Variance, Special Exception, Conditional Use or a Rezoning.
- (2) Ordinary financial considerations are the principal reason for the requested modification.
- (3) The modification amends a property specific condition imposed by the Board of Supervisors or the Board of Zoning Appeals, unless such condition specifically grants such modification authority to the Planning Commission.

- (4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures or the reduction of development density.

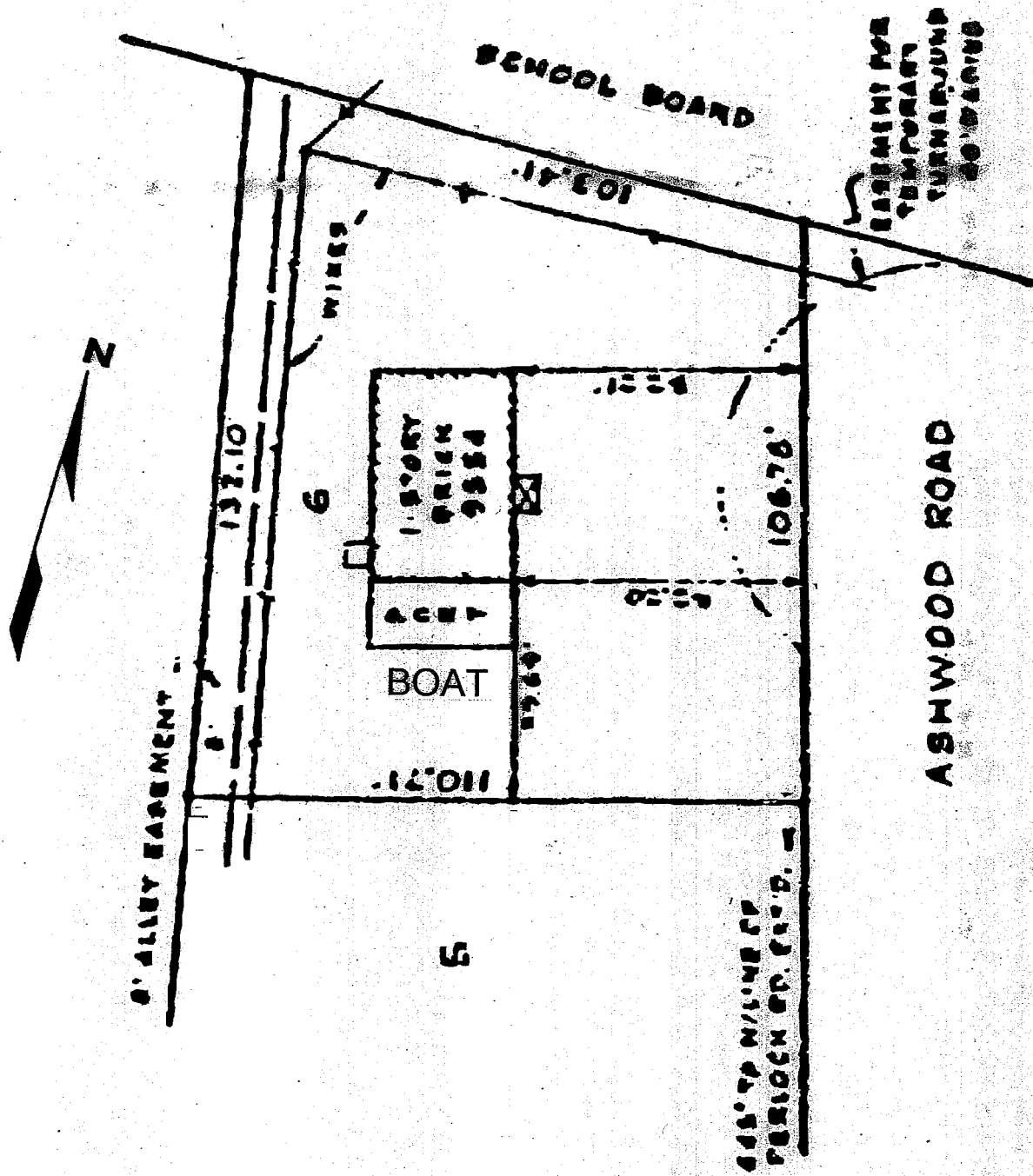


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ASHWOOD ROAD

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